OCS

DEPARTMENT OF STATE A/CDC/HR
REVIEWED BY _____ DATE _____
EXCISED EXEMPTION(S)
DELETED DENIED

2011

30 Nov 78.

JA

Requirements for Death Certificates and Autopsy of Deceased Civilians Flown to Dover AFB from Guyana

Lt Col Harold A. Teeter

1. You requested information regarding applicable law as to death certificates and autopsies in connection with the remains of persons recently flown into Dover AFB, Delaware from Guyana.

AFM 168-4, P 4-39c provides:

"A post mortem examination of a deceased civilian is governed by laws of the state or foreign land where the Air Force installation is located. Generally these laws require the written, signed permission of the nearest relative, or an order by an appropriate civil authority if the death occurred in unusual or suspicious circumstances . . . When consent of next of kin is required, it is obtained on SF 523 (attached)."

2. Generally, the primary right of custody of the body and the control of the burial is in the spouse, if any, and if not, in the next of kin in the order of their relation to the decedent. 22 Am Jur 2d Dead Bodies §§ 10 and 11. The right of burial is not an absolute right of property, but a privilege or license . . . subject to municipal regulation and control, and is legally revocable whenever the public necessity requires." 22 Am Jur 2d Dead Bodies § 1. Interference with the right which a person has to the solace of burying the body of his spouse or kin, whether by mutilation of the body after death, disturbing it otherwise, or withholding it, is an actionable wrong. 22 Am Jur 2d Dead Bodies § 17.

3. The laws of Delaware provide:

Whenever any person shall die in this state as a result of violence, by suicide . . . or in any suspicious or unusual manner or if there is any unclaimed body or if any body is to be cremated, it shall be the duty of the person having knowledge of such death or of the person issuing a permit for cremation . . . immediately to notify the Chief, Medical Examiner . . . who in turn shall notify the Attorney General of the known facts concerning the time, place, manner and circumstances of such death. 29 Delaware Code Annotated Medical Examiners § 4706a.

4. The foregoing Article of the Code provides for the medical examiner to take charge of the body if either he or the Attorney General shall deem it necessary. Provision is also made for notification of next of kin by the examiner and for an investigation by this office.

§4707 of the code provides that:

(a) When the cause of death shall have been established within reasonable medical certainty by a medical examiner, he shall prepare a written report . . . within 30 days after his investigation . . .

(b) If, however, in the opinion of the medical examiner an autopsy is necessary in the public interest or as shall be requested by the Attorney General, the same shall be performed by the Chief Medical Examiner . . . or by such other competent pathologists . . . designated by the Chief Medical Examiner. No person who authorizes or performs an autopsy pursuant to the provisions of this chapter shall be liable in any civil action for damages.

5. When a death . . . occurs outside this state and the body is accompanied by a permit for burial, removal or other disposition issued in accordance with the law and regulations in force where the death . . . occurred, the permit shall authorize the transportation of the body into or through this state, but before the burial, cremation or other disposal of the body within this state the permit shall be endorsed by the local registrar . . . 16 Delaware Code Annotated, Births, Deaths, Marriages, etc. § 3151(b).

6. Based on the foregoing, it appears that since civilians are involved, matters concerning death certificates and burial or cremation be coordinated with the Chief Medical Examiner and Attorney General. Further, that persons requesting autopsies be referred to the Chief Medical Examiner. Further, that release of identified bodies to identified surviving spouses or next of kin be coordinated with the Medical Examiner. In fact, it would appear that the State Department should be requested to undertake responsibility for all matters regarding the bodies including coordination with local authorities. See 10 U.S.C. § 1486b (attached).

7. Once it is determined who will take charge of the arrangements discussed above, the following options should be considered:

a. Assuming a permit for the removal of the remains was issued by Guyana and assuming burial or cremation is contemplated in Delaware, such permit could be urged as the "permit" referred to in 16 Delaware Code Annotated, Health and Safety, § 3151(b) above to secure authority for burial or cremation.

b. If the Delaware authorities request a death certificate from Guyana, a sample "mass" certificate which could be sought from the government of Guyana is attached.

c. The Air Force should refrain from conducting any autopsies. Where bodies have been identified and surviving spouses or next of kin are identified and request such autopsies consideration should be given to allowing such person(s) custody of the body so that such persons may make their own arrangements for autopsy and burial.

d. In view of 10 U.S.C. § 1486b, cited above, transportation of the remains beyond Dover AFB should be the responsibility of the State Department.

JOE RAMIREZ, Major, USAFR
Assistant Staff Judge Advocate

3 Atch
1. SF 523
2. Copy § 1486 - Gen Military Law
3. Sample Mass Certificate

Standard Form 523
Revised August 1951
Bureau of the Budget
Circular A-32 (Rev.)

U.S. GOVERNMENT PRINTING OFFICE 16 1 0-1

CLINICAL RECORD | AUTHORIZATION FOR POST-MORTEM EXAMINATION

In the event authorization for post-mortem examination is obtained by lette elegram, or mech nic recorded telephone call, paragraphs 1 and 2 shall be completed by hospital aut rities and the lett r, t. gram, or memorandum confirming telephone call of authorization attached to this form for permanen file

NAME AND LOCATIO HOSPITAL | DATE

1.

2. You are hereby authorized to perform a complete post-mortem examination on the remains of

_____
(Name of deceased)

Authority is also granted for the preservation and study of any and all tissues which may be removed T authority shall be limited only by the conditions expressly stated below:

Signature of witness _____ Signature _____
(Person authorized to consent)

Address _____ Address _____

_____ _____

Authority to consent _____

The performance of the autopsy specified above is approved.

Signature _____

Title _____

Date _____

PATIENT'S IDENTIFICATION (*For typed or written entries give: Name—last, first, middle; grade; date; hospital or medical facility*) | REGISTER NO. | WARD NO

AUTHORIZATION FOR POST-MORTE
Standard Form 523
523-104

1965 Amendment. Catchline. Pub.L. 89-150 deleted "; death while outside United States".

Subsec. (a). Pub.L. 89-150 substituted provision for payment of transportation expenses of remains of deceased dependent of a member of an armed force while the member is on active duty (other than for training) for former provision for payment of such expenses where the member of the armed force is on active duty at a place outside the United States and the dependent dies while residing with that member or while traveling to or from that place.

Legislative History. For legislative history and purpose of Pub. L. 89-150, see 1965 U.S.Code Cong. and Adm.News, p. 2884.

Code of Federal Regulations

Burial payments, dependents of commissioned officers, Public Health Service, see 42 CFR 21.331 et seq.

§ 1486. Other citizens of United States

(a) If local commercial mortuary services and supplies are not available, or if he believes that their cost is prohibitive, the Secretary concerned may furnish those services and supplies on a reimbursable basis in the case of any of the following citizens of the United States who die outside the United States:

(1) Any employee of a humanitarian agency accredited to the armed forces, such as the American Red Cross and the United Services Organization.

(2) Any civilian performing a service directly for the Secretary because of employment by an agency under a contract with the Secretary.

(3) Any officer or member of a crew of a merchant vessel operated by or for the United States through the Secretary.

(4) Any person who is on duty with an armed force under the jurisdiction of the Secretary and who is paid from non-appropriated funds.

(5) Upon the specific request of the Department of State, any person not otherwise covered by this section.

(6) Any dependent of a person who is covered by this section, if the dependent is living outside the United States with that person at the time of death.

(b) The Secretary may furnish transportation of the remains of persons covered by this section, on a reimbursable basis, to a port of entry in the United States.

(c) Reimbursement for services, supplies, and transportation furnished under this section shall be collected and credited to appropriations available, at the time of reimbursement, for those services, supplies, and transportation.

Aug. 10, 1956, c. 1041, 70A Stat. 114.

CERTIFICATE OF DEATH

I certify that the death of the individuals listed below was not believed to be a result of natural causes, but was directly or indirectly caused by suicide, accident or homicide as a result of acute or chronic poisoning, gun shot wound, or other injury. A full report of all evidence indicating the circumstances surrounding the deaths has been filed with the United States Government.

1. No. _____
2. Name of Deceased:
3. Place of Death:
4. Date and Hour of Death:
5. Sex:
6. Race:
7. Approximate Age:
8. Other identifying characteristics:

UNCLASSIFIED

Department of State

OUTGOING
TELEGRAM

PAGE 01 STATE 001102 6608
ORIGIN SCS-06

INFO OCT-01 ISO-00 /007 R

DRAFTED BY CA/SCS:MWHITE:ACM
APPROVED BY CA/SCS:AGISE

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P 032051Z JAN 79
FM SECSTATE WASHDC
TO AMEMBASSY GEORGETOWN PRIORITY

UNCLAS STATE 001102

E.O.112065 N/A

TAGS: CDES, GY (PEOPLE'S TEMPLE)

SUBJECT: IDENTIFIED DEAD

REF: GEORGETOWN 4492

1. LIST INCLUDES NAMES NOT ON PREVIOUS CABLES. VANCE

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